

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2005 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

M/S. GALAXY SALES

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR AC GANDHI for Petitioner

TANNA ASSOCIATES for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/08/2000

ORAL JUDGEMENT

This revision application is filed by the applicant Messrs. Galaxy Sales against the Ahmedabad Municipal Corporation. The petitioner herein has filed an appeal before the Small Causes Court, Ahmedabad, being Valuation Appeal No.7343 of 1987. The said appeal is

pending before the Small Causes Court, Ahmedabad. It is the case of the present petitioner, appellant in the appeal, that the appellant is occupying the property situated in Ward No.B, Odhav, being Municipal Census No.167. That there were two assessment orders by the Valuation Officer of the Corporation, but it seems that the appeal is filed only regarding Municipal Census No.167/A and not regarding Municipal Census No.167. An amendment application was, therefore, filed at Exhibit 9 in the said Valuation Appeal No.7343 of 1987. By the said amendment, the petitioner herein had requested to allow him to add additional number of the Revenue Survey Number, i.e. M.C. No.167. The learned trial Judge, by a reasoned order dated 29.9.1995, rejected the said application as per the grounds mentioned in the order. The said order is challenged in the present revision application.

It is not in dispute that there were two separate valuation orders regarding Municipal Census No.167/A and Municipal Census No.167. The gross rateable value fixed in each case is also different. The petitioner herein has challenged the valuation of only one Municipal Census number. When there are two substantive orders, naturally, two different appeals are required to be preferred. This is not, therefore, an innocuous amendment. It is, no doubt, true, as stated by the Advocate for the petitioner, that amendment can be granted at any stage. However, looking to the controversy in question and especially when there are two orders of assessment, two distinct appeals are required to be preferred and in one appeal, by way of amendment in the appeal memo, the petitioner herein cannot challenge the substantive order passed, by which valuation is fixed regarding other revenue survey number. Since there are two different orders, therefore, two different appeals were required to be filed and that defect cannot be cured by amendment. The learned trial Judge also considered the question of limitation also in detail in paragraph 3. I, therefore, do not find any error of jurisdiction in the order of the learned trial Judge.

It is, however, clarified that regarding other property, i.e. Municipal Census No.167, for which no appeal has been filed, it will be open for the petitioner to file an appeal and also pray for condonation of delay, if the same is permissible in law. If any such application is filed, the Court may consider the same in accordance with law and also considering the provisions whether to condone the delay or not.

So far as the impugned order is concerned, I do not find any substance. The same is dismissed. Rule is discharged. Interim relief is vacated. No order as to costs.

(P.B. Majmudar, J.)

(apj)